



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**OCT 06 2016**

David Keating, President  
Center for Competitive Politics  
124 West St. South  
Suite 201  
Alexandria, VA 22314

RE: MUR 6905

Dear Mr. Keating:

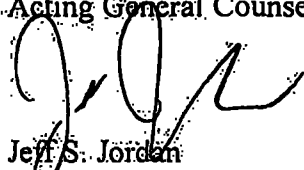
The Federal Election Commission reviewed the allegations in your complaint received on November 20, 2014. On September 23, 2016, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close its file in this matter. Accordingly, the Commission closed its file in this matter on September 23, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the dispositive General Counsel's Report is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

BY:   
Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
General Counsel's Report

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2016 AUG 29 PM 2:13

**BEFORE THE FEDERAL ELECTION COMMISSION**

2016 AUG 29 PM 3:11

**ENFORCEMENT PRIORITY SYSTEM  
DISMISSAL REPORT**

**MUR: 6905**

**Complaint Receipt Date: November 20, 2014**

**Response Date: January 16, 2015**

**Respondents: Lawrence Lessig; CELA  
Mayday PAC and Cyrus Patten  
in his official capacity as  
treasurer<sup>1</sup> (collectively  
the "Committee")**

**EPS Rating:**

**Alleged Statutory/**

**52 U.S.C. §§ 30120(a)(3), (c)(2), (d)(2)**

**Regulatory Violations:**

**11 C.F.R. §§ 110.11(a), (b)(3), (c)(2), (4)**

The Complaint alleges that the Committee,<sup>2</sup> an independent-expenditure only political committee, violated the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by distributing a series of television advertisements, radio advertisements, and mail pieces that did not comply with the Commission's disclaimer requirements. Specifically, according to the Complaint, the written and oral portions of the televised advertisements omitted language stating that Mayday PAC "is responsible for the content of this advertising," while the radio advertisements also failed to include the language "not authorized by any candidate or candidate's committee."<sup>3</sup> and some of the radio advertisements did not include Mayday PAC's street address, phone number, or web address, in violation of 52 U.S.C. § 30120(a)(3), (d)(2) and 11 C.F.R. §§ 110.11(b)(3), (c)(4). The Complaint finally alleges that the disclaimers on the mailers failed to state that they were not authorized by any candidate or candidate's committee and were not contained within a printed

<sup>1</sup> Mark McKinnon was the Committee's treasurer during the time period at issue. Mr. Patten is currently the Committee's treasurer.

<sup>2</sup> The Complaint states that the Committee was founded by Lessig.

<sup>3</sup> The advertisements apparently said "not affiliated with any candidate or campaign."

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1 box, as required by 52 U.S.C. § 30120(c)(2) and 11 C.F.R. § 110.11(c)(2)(ii). Respondents  
2 argue that the advertisements all include language stating that they were paid for by Mayday,  
3 PAC, the contents of the advertisements included enough information so that the public would  
4 not have been misled as to who had sponsored them, and the Committee took "prompt corrective  
5 action" by developing stricter internal controls to ensure compliance.

6 Based on its experience and expertise, the Commission has established an Enforcement  
7 Priority System using formal, pre-determined scoring criteria to allocate agency resources and  
8 assess whether particular matters warrant further administrative enforcement proceedings. These  
9 criteria include (1) the gravity of the alleged violation, taking into account both the type of  
10 activity and the amount in violation; (2) the apparent impact the alleged violation may have had  
11 on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent  
12 trends in potential violations and other developments in the law. This matter is rated as low  
13 priority for Commission action after application of these pre-established criteria. Given that low  
14 rating and the other circumstances presented, we recommend that the Commission dismiss the  
15 allegations consistent with the Commission's prosecutorial discretion to determine the proper  
16 ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32  
17 (1985). We also recommend that the Commission close the file as to all respondents and send  
18 the appropriate letters.

19 Daniel A. Petalas  
20 Acting General Counsel  
21

22  
23 Kathleen M. Guith  
24 Acting Associate General Counsel  
25 for Enforcement  
26  
27

8.29.16

Date

BY:

Stephen Gura

Deputy Associate General Counsel  
for Enforcement

Jeff S. Jordan

Assistant General Counsel  
Complaints Examination  
& Legal Administration

Ruth Heilizer

Attorney  
Complaints Examination  
& Legal Administration

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